



MAINE AQUACULTURE ASSOCIATION

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The Honorable Joyce A. Maker, Senate Chair
The Honorable Walter A. Kumiega III, House Chair
Joint Standing Committee on Marine Resources
Cross Building, Room 206
Augusta, ME. 04333

Senator Maker, Representative Kumiega, Honorable Members of the Joint Standing Committee on Marine Resources:

My name is Sebastian Belle and I am the Executive Director of the Maine Aquaculture Association (MAA). The MAA represents Maine's aquatic farmers and the many infrastructure companies that provide goods and services to our producers. In an average year, our members grow over 100 million dollars (farm gate value) of fresh, healthy Maine seafood and employ over 600 Maine citizens directly on the farms. Hundreds more are employed indirectly as a result of our member's operations. Our members purchase goods and services from over 450 Maine companies and sell to over 2,000 State, regional, national and international customers. Every year our members produce over 50 million healthy meals for America.

I stand before you today to testify in strong support of **LD 1438**, "An Act to Improve the Aquaculture Leasing and Licensing Laws". As some of you know aquaculture is fast becoming one of the most effective ways to diversify the economic base of Maine's coastal communities and ensure their working waterfronts remain viable. Three recent studies (Mckinsey, 2016., Hale Group, 2016., Cole et. al. 2017) recognized the significant economic development potential aquaculture has for the State. With most fisheries closed to new entrants and entire communities dependent on one fishery, aquaculture provides an opportunity for young Maine citizens to start and build small businesses that provide year-round employment, growth potential and a chance to remain in the coastal communities they were born in.

As Maine citizens seek to start aquaculture businesses one of the biggest challenges they have is going through the states aquaculture leasing system. No other marine resource user goes through as complicated and lengthy process to be given access to the states marine resources. It is not uncommon for it to take one to two years for a lease application to be reviewed and approved or denied. DMR currently has a backlog of over 30 applications in the review process with new applications coming in weekly. The department's ability to process new lease applications in a timely fashion is inhibited by the complexity of the leasing process and an increasing administrative work load as more leases are granted. LD 1438 has two key components that seek to reduce the departments administrative load and improve the leasing system.

1. LD 1438 gives the Commissioner authority to increase the length of a lease which reduces the frequency that the department has to process lease renewals. Currently leases must be renewed every ten years. While the renewal process is less complicated than the original application process it still requires significant staff time and administrative investment. LD 1438 gives the commissioner the authority to double the length of a lease period which essentially reduces staff administrative time over the life of the lease by one half. Increasing the length of a lease does

NOT reduce the commissioner's authority or ability to revoke a lease at any time for cause, it is just common sense and good management.

Increasing the length of a lease has an additional benefit, it makes it easier to raise financing for an aquaculture business. Banks are very reluctant to finance aquaculture businesses for periods longer than their leases because they know that a lease may or may not be renewed and without a lease an aquaculture business has no ability to do business and make loan payments. If financing is available for a period less than ten years' interest rates are often prohibitively high. This challenge is particularly acute for new start-ups and businesses being started by young working waterfront families who often have few assets and will have to wait 3-6 years before they see positive cash flow on a new farm. Lengthening the lease allows young families to spread their financing costs over longer loan terms, access lower interest rates and make lower payments during their start-up phase.

2. LD 1438 attempts to reduce the departments administrative load by establishing a process that allows an existing lease site to be expanded in a very limited way without having to go all the way back and start over with a new application. Currently if an existing leaseholder wants to reconfigure or expand an existing fully licensed farm they have to go through the entire original lease application and review process even though they have been operating on an existing site and are in compliance with all the requirements imposed on them as part of their lease contract. Allowing some limited expansion of an existing lease site without requiring a whole new application makes sense. It would allow established companies that have operated responsibly to modestly expand and would, theoretically reduce the departments administrative workload by not requiring a whole new lease application process. While the intent of the lease expansion section of LD 1438 is commendable it contains three provisions that make it unlikely to be used by many leaseholders.
 - a. It only allows for a 10% expansion over the term of the lease. For a twenty-year lease that represents less than one half a percent growth per year, significantly lower than the current rate of inflation and two thirds lower than Maines shore land zoning ordinances that allow up to 30% expansion in the reconstruction of existing nonconforming structures in the protected shore land zone. The proposed lease expansion process is rigorous, includes provisions that will protect the environment and gives the commissioner broad authority to NOT grant an expansion. **The percent of expansion allowed should be increased to 25%.**
 - b. LD 1438 establishes a much higher standard than an original application does in that it requires an expansion applicant to get signatures from all riparian land owners saying they do not object to the expansion.
 - c. LD 1438 goes further and establishes an even higher standard in that it states that the commissioner shall not grant an expansion if ANY objections of ANY nature from ANYONE are received during the comment period. This latter requirement means that even someone with no direct standing in the procedure who raises any kind of objection, whether it is substantive or relevant or not could block an expansion. That hardly seems fair and if nothing else that would seem to be a recipe for extortion.

Given the low percent expansion allowed and the combination of points b. and c. it seems likely that very few if any applicants will use the proposed expansion process instead of going back and filling a whole new application. In order to allow for modest expansion of responsibly operated existing lease sites and to help reduce the departments

administrative case load MAA respectfully suggests the following modifications to LD1438.

“12-C. Expansion of lease.....to expand the contiguous area of the lease by up to ~~10~~25% once during the duration of the term of the lease pursuant to this subsection.

A (4) Include a map of the lease area and its proposed expansion, and its adjoining waters and shore lands, with the names and addresses of the know riparian owners as listed in the municipal tax records and ~~a statement from each of those riparian owners that the owner has no objection to the proposed lease expansion~~ documentation from the expansion applicant showing that each of those riparian owners have been informed of the expansion application and the comment period;

D. If the commissioner receives any comments within 30 days of receipt of the notice that the application is complete or within 30 days of publication of the lease expansion summary pursuant to paragraph B objecting to the lease expansion, the commissioner ~~shall deny the request for the lease expansion~~ may deny the request for the lease expansion after considering the standing of the commenting entity and whether the submitted comments are germane to the criteria the commissioner considers during the review of the expansion application under Sec. 4. 12 MRSA §6072, sub §12-C, ¶E. “

MAA supports the provisions of LD 1438 that add the consideration of risks to public health to Sec. 6. 12 MRSA §6072-C sub-§2-A ¶F.

MAA also strongly supports the addition of a requirement that “LPA” applicants take an educational course the commissioner determines is appropriate. The process for acquiring an LPA is relatively simple and the number of “LPA” operators has increased dramatically in the last 5 years. Many of these operators are new to aquaculture and have little knowledge or experience in biosecurity, seafood safe handling or responsible community relations. All three of these areas of knowledge are important to a responsible, safe and community friendly aquaculture operation. MAA believes a well designed and implemented educational course that LPA operators have to take will go a long way towards protecting aquatic animal and plant health, reducing public health risks and increasing community acceptance to new aquaculture operations. MAA is willing to help in the development and implementation of a course that meets the departments goals.

Finally, MAA believes that in some cases the “LPA” system is being used to circumvent the existing leasing system. This is in large part due to the complex and lengthy nature of the existing leasing system. MAA supports the addition of two additional provisions to LD 1438 that would reduce the misuse of the LPA system.

- a. LD 1438 as proposed requires an LPA applicant to “identify whether the applicant is growing organisms for commercial or personal use”. MAA would like the bill to go further and establish an upper limit of 1 LPA per applicant and two per household for recreational or personal use LPAs. MAA would also like to see a no sale provision attached to all personal use LPAs. For biosecurity reasons MAA would also like to see the movement of organisms between recreational or personal use LPAs prohibited. Movement from recreational to commercial LPAs should also be prohibited.
- b. With the exception of certain gear types or functions (flupsys, relay, and wet storage) MAA would like to see a mandatory sunset provision on all commercial LPAs of 6 years. The

original intent of the LPA system was to lower the barriers to entry and allow growers to test specific sites by seeing how organisms performed on the site. The LPA system has proven very successful at both functions but in some cases, is now being used as an “end run” around the standard leasing system. Six years is plenty of time to test whether a site is a good one to establish a farm on or not. After that time period operators should apply for a standard lease that considers all the necessary criteria to assess a scaled-up farm.

MAA is prepared to submit draft language for the work session to help achieve these two goals.

LD 1438 is a beginning in a process the State must take if it is serious about preserving Maine's coastal communities and working waterfronts. The complexity of the leasing system and the long wait periods are discouraging applicants and investment. Over the last year DMR has worked hard to improve their internal processes but there are a number of statutory constraints that have inhibited their ability to effect change. LD 1438 is a good first step in addressing some of these constraints and giving the department some of the tools it needs to improve the aquaculture leasing and licensing systems. I thank you for your consideration and urge you to vote **Ought to Pass as amended** on LD 1438. I stand ready to answer any questions the committee may have and assist in any way I can during the work session.

Sincerely yours,



Sebastian M. Belle

SMB/rkc